

**STATEMENT OF  
THE HONORABLE STEVEN R. BLUST  
CHAIRMAN, FEDERAL MARITIME COMMISSION  
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BEFORE THE  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
SUBCOMMITTEE ON COAST GUARD AND  
MARITIME TRANSPORTATION  
UNITED STATES HOUSE OF REPRESENTATIVES  
MARCH 1, 2006**

Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you today to present the President's fiscal year 2007 budget for the Federal Maritime Commission. With me today are Bruce Dombrowski, Director of the Office of Operations and Rebecca Fenneman, an Attorney in the Office of the General Counsel.

The President's budget for the Commission provides for \$21,474,000 for fiscal year 2007. This represents an increase of 5.8%, or \$1,180,000, over our fiscal year 2006 appropriation. This budget provides for 132 workyears of employment.

Our fiscal year 2007 budget request contains \$15,691,000 for salaries and benefits to support the Commission's programs. This is an increase of \$1,178,000 over our fiscal year 2006 appropriation. This includes all salaries, including those for employees hired in fiscal year 2006, promotions, within-grade increases, and an anticipated cost of living adjustment. The funding includes annualization of the fiscal year 2006 cost of living adjustment increase, and an anticipated 2.2 percent fiscal year 2007 cost of living adjustment. Further, it includes funds to hire two critical staff: a Commissioner's Counsel and an attorney for our Office of Consumer Affairs and Dispute Resolution Services.

Official travel has been straight-lined at our fiscal year 2006 level. Travel remains an essential aspect of our effort to provide better service to the ocean transportation industry and to accomplish our oversight duties more effectively.

Administrative expenses will have increased \$2,000 net over fiscal year 2006. The Commission is planning for a small increase in rent to accommodate GSA rental rate increases, as well as an increase to fund Homeland Security charges. Other administrative expenses will be incurred in fiscal year 2007 to support increases in our customary business expenses, such as maintaining government and commercial contracts, and for items such as telephones, postage, and supplies.

Just like in previous years, the Commission's budget contains primarily non-discretionary spending. These items represent the basic expenses any organization faces in order to conduct its day-to-day operations, and are crucial to allow us to meet the responsibilities Congress has entrusted to the agency.

As you know, Mr. Chairman, the Commission is responsible for the regulation of oceanborne transportation in the foreign commerce of the United States. Since 1916, the Commission and its predecessor agencies have effectively administered Congress' directives for the ocean transportation industry, and its long-standing expertise and experience have been recognized by Congress, as well as by the industry the Commission oversees, courts, and other Nations. Working with the industry, we have developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports. I would like to highlight for you some of the significant activities in which the Commission is involved.

Last year I told you about the Commission's rulemaking proceeding to allow non-vessel-operating common carriers to enter into confidential service arrangements with their shipper-customers. As you will recall, NVOCCs otherwise in compliance with the licensing, financial responsibility, and tariff publication requirements of the Shipping Act are now permitted to enter into confidential NVOCC Service Arrangements, or NSAs, with their shipper customers in lieu of publishing their rates in a publicly-available tariff, provided that the NSA is filed confidentially with the Commission and the essential terms are published in the NVOCC's tariff. This new regulatory scheme is consistent with the regulations governing service contracts between ocean common carriers and their shipper customers, and we anticipate that it will result in greater competition in the shipping industry.

Originally the exemption rule did not allow NVOCCs or shippers associations with NVOCC members to participate in NSAs as shippers. We were concerned about the potential antitrust implications of such arrangements. Some of those concerns were ameliorated after issuance of a judicial decision last fall, and the Commission determined that it could remove these limitations. Two or more NVOCCs are still prohibited from jointly offering a single NSA, as we believe this might run counter to recent judicial interpretations which construe the antitrust provisions of the Shipping Act in a manner we believe to be much broader than what was envisioned by Congress, this Commission, and indeed even the industry. I indicated last year that we would continue to work with the industry to address this issue. In fulfillment of this obligation, the Commission requested the comments of industry participants on potential ways to authorize joint NSAs by multiple NVOCCs. The Commission received numerous comments in late 2005, and is presently evaluating them.

As of January of this year, 207 original NSAs and 122 NSA amendments had been filed. A total of 330 NVOCCs have registered to file NSAs. We are encouraged by these numbers, and are certain they will continue to rise as the industry becomes more familiar with these agreements.

As part of the Commission's enforcement and ocean transportation intermediary ("OTI") oversight functions, as well as the ombudsman services provided by the Office of Consumer Affairs and Dispute Resolution Services, the Commission recently commenced a formal investigation against nine household goods moving companies operating in violation of the Shipping Act. The Commission's preliminary investigation indicated that these companies were unlawfully doing business as unlicensed NVOCCs without proof of financial responsibility or published tariffs, and were engaging in conduct that created risks of significant financial harm to the public. On January 17, 2006, the U.S. District Court for the Southern District of Florida granted the Commission's motion for a preliminary injunction against four of the companies and three of the individuals named as respondents in the proceeding. The injunction, which prohibits these respondents from operating in violation of the Shipping Act, will remain in effect pending the completion of the Commission's investigation.

The Court injunction and the Commission's formal

investigation are based on more than 250 consumer complaints. Some examples of those complaints include failure to deliver cargo and refusal to return the pre-paid ocean freight; loss of the shipper's cargo; charging the shipper for marine insurance never obtained; withholding cargo until the shipper pays a higher rate than the one originally quoted; misleading the shipper as to the cargo's whereabouts; and finally, making the release of cargo dependent upon the shipper paying a second carrier or warehouse for transportation and warehousing already pre-paid to respondents. As most of the injuries of which we are aware involve shippers' personal household possessions, the Commission considers it especially important that every effort be made to prevent the respondents from injuring anyone else. At the moment, the proceeding is before the Commission's administrative law judge and we will seek additional injunctions as warranted.

Last year I advised you about the agency's public outreach initiative involving a series of informational seminars hosted by the Commission's Area Representatives and other Commission personnel at various locations around the country. These seminars continue to be successful in creating a forum for enhanced dialogue between the industry and the Commission. As you may recall, we also started a program where we have invited representatives from various segments of the industry to brief our staff on current issues and concerns affecting the ocean transportation industry. Thus far, we have met with representatives from the ocean transportation intermediary, passenger vessel and vessel operator communities, as well as shippers, marine terminal operators, and port authorities. We are in the process of planning more informational briefings for 2007 with other segments of the maritime industry, including federal agencies. I am confident that these briefings will provide the Commission and its staff with a greater awareness and understanding of the most current issues facing the maritime community.

The Commission continues to address restrictive or unfair foreign shipping practices under section 19 of the Merchant Marine Act, 1920 ("Section 19"); the Foreign Shipping Practices Act of 1988 ("FSPA"); and the Controlled Carrier Act of 1978. Section 19 empowers the Commission to make rules and regulations to address conditions unfavorable to shipping in our foreign trades; FSPA allows the Commission to address adverse conditions affecting U.S. carriers in our foreign trades that do not exist

for foreign carriers in the United States. Under the Controlled Carrier Act, the Commission can review the rates of government-controlled carriers to ensure that they are not below a level that is just and reasonable.

When I was here last, I advised you of several pending proceedings related to shipping conditions in China. In particular, the Commission was investigating whether Chinese laws and regulations might discriminate against and disadvantage U.S. vessel operators and NVOCCs with regard to a variety of maritime-related services. As you know, in December of 2003, the United States, through the Secretary of Transportation, and his Chinese counterpart, the Minister of Communications, signed a bilateral maritime agreement which appeared to address many of the concerns raised by the Commission, including issues affecting vessel operators, NVOCCs, and other industry interests. That agreement became effective with the exchange of diplomatic notes in April of 2004.

Subsequently, the Commission requested comment from the industry on whether the commitments made in the bilateral agreement, which would have relieved the impediments to U.S. companies identified by the FMC, were being honored.

I am pleased to report to you that the issues we raised have been adequately addressed, and the Commission terminated the formal proceeding investigating these Chinese practices on April 21, 2005. Informally, we continue to receive positive feedback from the U.S. industry in this regard. I note that since I last addressed you, another U.S.-flag carrier has entered the U.S.-China trade and has opened offices in two cities in China. Matson's first vessel in the Ningbo-Shanghai-Long Beach express service called in Ningbo on February 21, 2006.

We will continue to monitor practices in China and elsewhere to determine whether formal action is warranted.

Lastly, the Commission recognizes that its oversight of ocean common carriers, ocean transportation intermediaries, including ocean freight forwarders and NVOCCs, and marine terminal operators, is an important element in the effort to protect our Nation's seaports. We are continuing our efforts to combat unlawful participation in the U.S. ocean transportation system by ensuring that all entities engaged in the U.S. foreign

commerce are in compliance with the requirements of the statutes we administer. The Commission has met with the Office of Naval Intelligence, the Department of Homeland Security and the Department of Transportation to discuss information sharing and other possible FMC contributions to maintaining a safe and efficient maritime transportation system. The Commission regulates the commercial practices of the operators of U.S. marine terminals. This oversight ensures that marine terminal operators follow just and reasonable practices, and that they do not unreasonably prefer or prejudice any person or unreasonably discriminate against carriers using their facilities. While our oversight is limited to the regulation of such commercial practices, we make every effort to work closely with other agencies to share information in this area. Moreover, the Commission is a member of the Committee on the Marine Transportation System, the inter-agency group created by the Bush Administration to carry out a joint strategic plan that ensures that the U.S. marine transportation system achieves the expansion goals necessary to support the level of traffic anticipated in the 21st Century in a secure, environmentally sound and coordinated manner for all stakeholders. We also continue to exchange information with the U.S. Customs Service through a Memorandum of Understanding. As the Commission continues to refine its role in the safeguarding of our national security, we stand ready to provide our technical expertise and assistance to all groups that are on the front lines of securing our ports and vessels.

Mr. Chairman, I hope that my comments have served to give you a clear indication of the important work to be accomplished by the Federal Maritime Commission. I respectfully request favorable consideration of the President's budget for the Commission so that we may continue to perform our vital statutory functions in fiscal year 2007.